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7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013 - 364

12 **EILEEN CAREY RICHARD**  
13 **P.O. Box 4706**  
**Baton Rouge, LA 70821**

**ACCUSATION**

14 **8623 Rush Ave. Apt 704**  
**Baton Rouge, LA 70810**

15 **Registered Nursing License No. 652359**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about February 9, 2005, the Board of Registered Nursing issued Registered  
24 Nursing License Number 652359 to Eileen Carey Richard (Respondent). The Registered Nursing  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on November 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

..."

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

1       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
2       11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
3       Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
4       himself or herself, any other person, or the public or to the extent that such use impairs his or her  
5       ability to conduct with safety to the public the practice authorized by his or her license.

6       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
7       self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
8       or the possession of, or falsification of a record pertaining to, the substances described in  
9       subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
10      thereof.

11      "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of  
12      or addiction to the use of any of the substances described in subdivisions (a) and (b) of this  
13      section, in which event the court order of commitment or confinement is prima facie evidence of  
14      such commitment or confinement.

15      "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
16      hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
17      section."

18      9.     Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
19      administrative law judge to direct a licensee found to have committed a violation or violations of  
20      the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21      enforcement of the case.

22      10.    Health and Safety Code section 11173(a) states, in pertinent part, that no person shall  
23      obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
24      administration of or prescription for controlled substances by fraud, deceit, misrepresentation or  
25      subterfuge.

26      11.    Code section 4060 provides, in pertinent part, that no person shall possess any  
27      controlled substance, except that furnished upon a valid prescription/drug order.

1 12. Health and Safety Code section 11170 provides that no person shall prescribe,  
2 administer, or furnish a controlled substance for himself or herself.

3 13. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess  
4 any controlled substance in Schedule II, subdivision (d), without a prescription.

#### 5 DRUGS

6 14. Morphine is a Schedule II controlled substance as designated by Health and Safety  
7 Code section 11055(b)(1)(L), and a dangerous drug as designated by Code section 4022. It is  
8 used to treat moderate to severe pain.

9 15. Vicodin, Lortab, Lorcet, and Norco are brand names for compounds of varying  
10 dosages of acetaminophen and hydrocodone bitartrate, a Schedule III controlled substance as  
11 designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by  
12 Business and Professions Code section 4022, used for pain relief.

#### 13 FIRST CAUSE FOR DISCIPLINE

##### 14 (ILLEGALLY OBTAIN OR POSSESS CONTROLLED SUBSTANCES)

15 16. Respondent is subject to disciplinary action under Code sections 2762(a), 4060,  
16 and/or Health and Safety Code sections 11173(a) and 11377, in that while on duty as a registered  
17 nurse at Kaiser Foundation Hospital in San Francisco, California, Respondent illegally obtained  
18 and/or possessed controlled substances as follows:

19 Patient J.L.:

20 a. On September 22, 2011 at 16:04, Respondent removed two tablets of  
21 hydrocodone/acetaminophen from the hospital Pyxis<sup>1</sup>. Respondent failed to document  
22 administration or wastage of the medication, or account for its disposition.

23 b. On September 22, 2011 at 20:21, Respondent removed one tablet of morphine sulfate  
24 from the hospital Pyxis. Respondent documented that she administered the medication at 20:37,  
25 16 minutes after it was withdrawn from the Pyxis.

26  
27  
28 <sup>1</sup> Pyxis is a hospital computerized medication storage system.

1 c. On September 22, 2011 at 20:22, Respondent removed two tablets of  
2 hydrocodone/acetaminophen from the hospital Pyxis. Respondent failed to document  
3 administration or wastage of the medication, or account for its disposition.

4 d. On September 23, 2011 at 02:07, Respondent removed two tablets of  
5 hydrocodone/acetaminophen from the hospital Pyxis. Respondent documented that she  
6 administered the medication at 04:23, 2 hours and 16 minutes after it was withdrawn from the  
7 Pyxis. The patient denied having received the medication.

8 e. On September 23, 2011 at 05:34, Respondent removed two tablets of  
9 hydrocodone/acetaminophen from the hospital Pyxis. Respondent failed to document  
10 administration or wastage of the medication, or account for its disposition.

11 Patient M.Q.:

12 f. On September 22, 2011 at 16:06, Respondent removed one tablet of  
13 hydrocodone/acetaminophen from the hospital Pyxis. Respondent failed to document  
14 administration or wastage of the medication, or account for its disposition.

15 g. On September 22, 2011 at 20:20, Respondent removed one tablet of  
16 hydrocodone/acetaminophen from the hospital Pyxis. Respondent documented administration of  
17 the medication at 20:22, however, the patient denied receiving the medication.

18 h. On September 23, 2011 at 00:41, Respondent removed one tablet of  
19 hydrocodone/acetaminophen from the hospital Pyxis. Respondent failed to document  
20 administration or wastage of the medication, or account for its disposition.

21 i. On September 23, 2011 at 03:57, Respondent removed one tablet of  
22 hydrocodone/acetaminophen from the hospital Pyxis. Respondent failed to document  
23 administration or wastage of the medication, or account for its disposition.

24 SECOND CAUSE FOR DISCIPLINE

25 (FALSIFY, OR MAKE GROSSLY INCORRECT, GROSSLY INCONSISTENT, OR  
26 UNINTELLIGIBLE ENTRIES IN ANY PATIENT RECORD)

27 17. Respondent is subject to disciplinary action under Code section 2762(e), in that while  
28 on duty as a registered nurse at Kaiser Foundation Hospital in San Francisco, California,

1 Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in  
2 hospital and patient records, as alleged above in paragraphs 16.a. through 16.i.

3 THIRD CAUSE FOR DISCIPLINE  
4 (UNPROFESSIONAL CONDUCT)


5 18. Respondent is subject to disciplinary action under section 2761(a) in that she acted  
6 unprofessionally as alleged above in paragraphs 16.a. through 16.i., and 17.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Revoking or suspending Registered Nursing License Number 652359, issued to  
11 Eileen Carey Richard;
- 12 2. Ordering Eileen Carey Richard to pay the Board of Registered Nursing the reasonable  
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
14 Code section 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.
- 16

17 DATED: NOVEMBER 2, 2012

18 *for*   
19 LOUISE R. BAILEY, M.ED., RN  
20 Executive Officer  
21 Board of Registered Nursing  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

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